IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 07.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No. 1219 of 2002

R.Ramadoss ... Appellant/Petitioner.

Vs.

1.The State of Tamil Nadu,
rep. By the Commisisoner and
Secretary to Government,
Transport Department,
Fort St. George,
Chennai-9.

2.The Land Acquisition Officer
and Revenue Divisional Officer,
Nagapattinam,
Thanjavur District.

3.The State Transport Corporation,
Successor in office to Cholan
Roadways Corporation Ltd.,
Kumbakonam. . Respondents/Respondents.

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 11.03.2002 made in W.P.No.16809 of 2000 filed under Article 226 of the Constitution of India, to call for the records of the 2nd Respondent in award No.1 dated 2.8.1989.

For Appellant : Mr.AR.L.Sundaresan, SC for
Mrs.AL.Gandhimathi
For Respondents : Mr.C.Thirumaran,
1 and 2 Government Advocate
For 3rd respondent : J.James

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of the learned single Judge dated 11.03.2002 made in W.P.No.16809 of 2000, wherein the learned single Judge, after finding that the said writ petition came to be filed after a lapse of more than eight years after passing of the award, dismissed the same.

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2. Heard the learned Senior counsel appearing for the appellant as well as the respondents.

3. In view of the order to be passed herein, we are of the view that it is unnecessary to refer all the factual matrix. However, it is to be noted that the petitioner/appellant has challenged the notification issued under Section 4(1) and declaration under Section 6 of the Tamil Nadu Land Acquisition Act(hereinafter referred to as "the Act") in respect of the very same acquisition proceedings and ended in dismissal up to the level of the Supreme Court. In the writ petition, precisely, the petitioner/appellant has challenged the award dated 2.08.1989 passed by the Land Acquisition Officer and the Revenue Divisional Officer, Nagapattinam, Thanjavur District, the second respondent.

4. The main ground of attack before the learned single Judge as well as before us was that the award passed after lapse of 2 years from the date of declaration under Section 6 of the Act and as such, the entire proceedings are liable to the quashed.

5. It is useful to refer that while affirming notification under Section 4(1) as well as declaration under Section 6 of the Act, the learned single Judge(NVBJ), in the order dated 18.04.1998 in W.P.No.13589 of 1986, in the penultimate paragraph, has referred to the fact that after proper enquiry, award was passed and possession of the land continued with the third respondent-requisitioning body. Though the learned Senior Counsel appearing for the appellant has contended that notice was received for award enquiry and the petitioner/appellant has participated, according to him, there was no communication of the award in terms of Sub Section 2 of Section 12 of the Act.

6. It is not the case of the appellant that he was not aware of the acquisition proceedings. It is not in dispute that at every stage, the acquisition proceeding was challenged before the learned single Judge, Division Bench and the matter went upto the Supreme Court. As rightly pointed out by the learned single Judge, inasmuch as the award was passed on 02.08.1989, the present writ petition was filed by the petitioner/appellant only on 27.08.2000, merely after a lapse of 11 years. For the sake of repetition, we refer that it is not the case of the appellant/petitioner that he has not received the notice in the award proceedings. On the other hand, his definite case is that he participated in the award enquiry. In such circumstances, we are of the view that the petitioner/appellant is not justified in keeping silent for a period of 11 years in challenging the award proceedings only on the ground that the same was not passed within the prescribed statutory limit.

7. It is not in dispute that the Courts have taken a view that after taking possession, the land vests with the Government and the challenge relating to the acquisition proceedings including passing of the award cannot be entertained for any reason. In this regard, the learned counsel appearing for the third respondent has brought to our notice that as early

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as on 16.06.1998, possession was handed over and the Government has taken charge of the acquired lands in Award No.1/89 dated 08.07.1989 for their use as Depot for the Tamil Nadu State Transport Corporation, Kumbakonam Division I, Thiruvarur Branch. The said document is available at page 16 of the typed set of papers filed by the third respondent.

8. In such circumstances, in view of the factual details, more particularly of the fact that after passing of the award, possession was taken as early as on 16.06.1998 and considering the admitted factual position that the proceeding relating to apportionment of compensation is pending before the appropriate authority, we are not inclined to interfere with the passing of the award. These aspects have been rightly considered by the learned single Judge. We agree with the said conclusion. Accordingly, the writ appeal fails and the same is dismissed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Commissioner and Secretary
to Government,State of Tamil Nadu,
Transport Department,
Fort St. George,
Chennai-9.

2.The Land Acquisition Officer
and Revenue Divisional Officer,
Nagapattinam,
Thanjavur District.

3.The State Transport Corporation,
Successor in office to Cholan
Roadways Corporation Ltd.,
Kumbakonam.

+ 1 CC To Mr. T.Arulraj, Advocate SR NO. 29259

+ 1 CC to the Government Pleader SR NO 29264

W.A.No. 1219 of 2002
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